

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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In the Matter of)	
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360Networks (USA) Inc.)	
)	
and)	WC Docket No. 03-227
)	
Touch America, Inc.)	
)	
)	
Domestic Section 214 Application filed for)	
Acquisition of Assets of Touch America,)	
Inc. by 360networks (USA). Inc.)	
)	

PETITION TO DEFER OF THE U.S. DEPARTMENT OF HOMELAND SECURITY

The Department of Homeland Security (“DHS”) believes that it is necessary to fully analyze the above-captioned application in order to determine whether it may raise national security and/or public safety issues, and therefore respectfully requests that the Federal Communications Commission (“Commission”) defer action on the above-captioned matter, as it may take additional time to fully identify and resolve these issues prior to the Federal Communications Commission’s grant of the above-captioned Application.

In the above captioned proceeding, 360networks (USA) inc. (“360networks”) and Touch America, Inc. applied under Sections 63.03 and 63.04(a) of the Commission’s rules¹ for authority to enable 360networks to acquire certain of Touch America’s assets, including Touch America’s

private line, dedicated and dial-up Internet, and ATM/Frame Relay businesses. The application in the instant matter indicates that 360networks is wholly owned by 360networks Corporation, a company organized under the federal laws of Canada. The application further notes that the addition of the Touch America network would complement 360networks' existing optical mesh fiber network, which reaches 69 major cities in the U.S. and Canada, and includes 13 metro fiber networks in the largest U.S. cities and 23 metro fiber networks in nine Canadian provinces.

The Department of Homeland Security believes that additional time will be required to fully analyze the nature of the network infrastructure and to address any potential risks to national security and public safety, and to determine whether a network security agreement or other remedy should be explored in order to address any such risks that may exist.

Accordingly, DHS hereby requests that dispositive action by the Commission concerning this application be deferred until such time as DHS has resolved such issues, determined whether an agreement addressing those aspects of the application that raise national security and public safety concerns is required and, if so, until such agreement has been concluded.

Date: November 18, 2003

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